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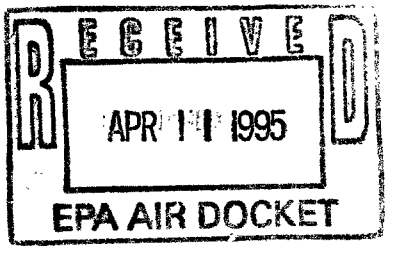
ECONOMIC ANALYSIS, REGULATORY FLEXIBILITY ACT SCREENING ANALYSIS, AND PAPERWORK REDUCTION ACT INFORMATION COLLECTION REQUEST ANALYSIS FOR PROPOSED REVISIONS TO PART 70 OPERATING PERMITS REGULATIONS



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I. INTRODUCTION AND SUMMARY

The U.S. Environmental Protection Agency (EPA) is proposing revisions to the regulations in part 70 of chapter I of title 40 of the Code of Federal Regulations. Part 70 contains regulations requiring States to develop, and submit to EPA for approval, programs for issuing operating permits to major, and certain other, stationary sources of air pollution. Proposed regulatory changes to part 70 are necessary to remedy problems identified through a number of points of litigation on the regulatory requirements, to make clarifications to part 70 where misunderstandings have arisen, and to alleviate difficulties in implementing part 70 that have surfaced since its promulgation. This document examines the impacts of these regulatory changes.

The final part 70 regulations were published in the Federal Register on July 21, 1992. The regulatory impacts of the final rule were summarized in "Regulatory Impacts Analysis and Regulatory Flexibility Act Screening for Operating Permits Regulations," EPA/OAQPS June 1992 (EPA-450/291011) (referred to as the "RIA"). Additional information was provided in a memorandum from John S. Seitz of EPA to Tom Kelly of the Office of Management and Budget (OMB) on October 17, 1991. This memorandum addressed "Submission of Information Collection Request (ICR) for 40 CFR part 70 Operating Permits Regulations Under title V of the Clean Air Act" (Act).

Subsequent to the approval of these analyses and the promulgation of part 70, EPA determined that the phrases "modifications under any provision of title I of the Act" or "title I modifications" necessarily include changes at sources that are subject to minor new source review (minor NSR). Minor NSR means an EPA-approved State or local agency program which implements section 110(a)(2) of title I of the Act for the preconstruction review of changes which are subject to review as new or modified sources and which do not qualify as new major stationary sources or major modifications under EPA regulations implementing parts C or D of title I of the Act. Not including

minor NSR changes as title I modifications, as understood at the time part 70 was promulgated, would have allowed the majority of these changes to remain "off-permit," i.e., not prohibited by permits and not to be incorporated into permits until their renewal. The RIA for the part 70 regulations assumed there would be 52,646 minor NSR changes at sources per year and they would not be considered title I modifications. These changes would, therefore, not be subject to provisions of part 70 requiring permit revisions unless any of the changes conflicted with the existing terms and conditions of a part 70 permit. Such conflicts were assumed to occur for about 4,500 minor NSR changes per year thereby requiring a permit revision for their incorporation. Consequently, the subsequent interpretation that minor NSR changes are indeed title I modifications and not eligible for off-permit treatment would result in an estimated additional 48,146 permit revisions subject to the part 70 permit revision process. These permit revisions were not included in the analyses reflected in the current RIA. These additional permit revisions result in an estimated increase in administrative costs of approximately $341 million over the current RIA. It is also important to note that this adjustment to the baseline of the additional 48,146 permit revisions is not part of the current ICR and would not necessarily have been approved by OMB.

The EPA believes that the RIA and ICR currently approved by OMB should be adjusted by this same amount to form an appropriate baseline for evaluation of the proposed changes to part 70. In part, the proposed revisions would also restrict the availability of off-permit treatment for minor NSR changes, but for reasons stemming from the restructuring of the off-permit concept (due to the need for a permit to define the operations of a source), and not from the interpretation that minor NSR changes are title I modifications. Accordingly, this document analyzes the regulatory impacts of the proposed changes to part 70 both in comparison to the baseline adjusted for the interpretation that

minor NSR changes are title I modifications and to the current ICR that has been previously approved as the baseline.

Since the publication of the RIA and ICR for the current part 70, additional executive orders (E.O.) have been enacted which pertain to regulatory actions. The most significant action is E.O. 12866. This order addresses regulatory planning and review. One aspect of E.O. 12866 is establishment of a procedure for submittal and review requirements for "significant regulatory actions." Section 3(f) of E.O. 12866 establishes a significant regulatory action as one that has more than $100 million in impact to the economy or adversely and materially affects a sector of the economy. To avoid ambiguity, the EPA and the OMB also consider significant any impact of $25 million to any sector of the economy. This document evaluates the proposed changes to part 70 consistent with the requirements of E.O. 12866. This document also looks at the individual and collective impacts of the proposed changes to determine if individually or collectively they trigger the Agency's definition of significant regulatory action provided in E.O. 12866.

One of E.O. 12866's criteria for significant regulatory impact is an action that raises "novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order." Two additional Executive Orders, 12875 (Unfunded Mandates) and 12898 (Environmental Justice) have been published subsequent to the RIA and ICR. As these orders reflect the President's priorities, the impacts of proposed rule changes relevant to them have been evaluated. In addition, other priorities such as the Paperwork Reduction Act and the Regulatory Flexibility Act, which were considered in the RIA and ICR, are addressed again. The other three E.O. 12866 criteria for significant regulatory impact include an adverse annual effect of greater than $100 million, inconsistency or interference with actions of other agencies, or material alteration of budgetary impacts of grants entitlement, user fees, or loan programs and of the rights of recipients. The

EPA has not identified specific impacts that may affect other agency programs or transfer programs. Therefore the emphasis of this impact analysis is on the direct economic impact of the proposed changes and conformity with Presidential Priorities.

The combined package of rule changes is estimated to have an annual marginal impact of about $72 million over the baseline in the current ICR. On the other hand, the rule changes in aggregate can also be viewed as causing a reduction in burden from a baseline adjusted to account for the non-availability of the off-permit process for minor NSR changes of almost $117 million per year.

A detailed summary of the combined impacts of the individual proposed changes to part 70 is presented in Table I.1. The values in this table represent the overall annual cost impacts of changes discussed in Section II of this document.

TABLE I.1

ANTICIPATED ECONOMIC IMPACT FOR PROPOSED CHANGES TO Part 70[1] [2]

Category / Regulation	Total Burden	Current RIA and ICR Marginal Burden	Revised Baseline Marginal Burden
Permit Revisions	$198,169	$80,293	($260,821)
70.6(a)(9)	$268	$268	$268
70.7(i)	($8,300)	($8,300)	($8,300)
TOTAL IMPACTS	$190,137	$72,261	($268,853)

1 All costs are in thousands

2 The EPA believes the appropriate baseline for evaluating the impact of the costs associated with the changes to the part 70 operating permits program is one which is adjusted to include costs to revise permits to incorporate the additional 48,164 minor NSR changes (i.e., those which no longer qualify for off-permit treatment and which do not conflict with current permit terms which would already have required a permit revision prior to permit renewal). The table also contains a cost comparison of the currently approved RIA and ICR for part 70 to reflect the impact of EPA's current interpretation of the law with respect to the definition of title I modification.

II. THE NEED FOR AND CONSEQUENCES OF REGULATORY ACTION

The most extensive changes being proposed to part 70 involve those provisions that define when permits must be revised to accommodate changes at a source and how such revisions would be accomplished. The proposed part 70 changes revise the

applicability of, and procedures for, administrative permit amendments and minor permit modifications, add a new de minimis permit revision process, and change the applicability of the existing significant permit modification procedures. As shown in Table I.1, these changes alone create virtually all the potential cost impacts associated with the proposed rulemaking.

Other proposed changes to part 70 include:

- Allowing an operating permits program to receive interim approval if the program contains provisions that a permit could be revised through the minor permit modification procedure to incorporate a change previously subjected to minor NSR requirements.
- Making certain that reductions which limit potential emissions or act as offsets between sources' applicable requirements are included as applicable requirements under part 70.
- Clarifying when fugitive emissions are to be counted in determining total emissions for purposes of determining major source status at a stationary source.
- Expanding the maximum period for judicial review of permit actions in State court from 90 to 125 days.
- Clarifying that permitting agencies have considerable flexibility in determining the content of a permit application necessary for processing to begin.
- Allowing a permitting authority to require any additional information needed for compliance determination purposes.
- Allowing permitting authorities to consider mental state when assessing penalties above $10,000.
- Changing the definition of "major source" with respect to sources of hazardous air pollutants (HAP's) to exclude Standard Industrial Classification (SIC) codes.
- Clarifying time frames for submittal and review of program revisions which would be required in response to the new requirements of part 70.
- Clarifying when requirements that become applicable during the permitting process must be included in the permit.
- Providing for notice to the public when EPA's 45-day permit review period begins and ends.
- Clarifying the requirement for periodic demonstrations that permit fees are adequate to fund the program.
- Clarifying when mandatory sanctions must be applied.
- Providing that changes to alternative operating scenarios will be included in a report to the permitting authority the week after any such change takes place unless the associated monitoring regime changes to an extent that indicates the operating scenario.

- o Revising the current reopening procedures to facilitate incorporation of future section 112 standards.
- o Clarifying when certain changes not prohibited or addressed by the permit must be incorporated into the permit.
- o Providing when monitoring changes are also eligible for expedited permit revision.

III. EXAMINATION OF PROPOSED CHANGES AND ALTERNATIVES

The remainder of the report examines the proposed changes to part 70 on a section by section basis. For each change, the discussion describes the issue, evaluates the impact qualitatively or, where possible, quantitatively, and presents an assessment of regulatory impacts.

A. § 70.2 - Definitions

As a result of the changes proposed to part 70, several definitions in § 70.2 have been revised to ensure consistency of meaning within part 70 and across other EPA regulations. In this impact analysis, definition changes are examined in three categories; changes which provide clarification to part 70 language but that result in no additional economic impact or burden, definitions which have been added to or removed from part 70 whose impact (as appropriate) is evaluated later in context of the rule revisions which rely on them, and changes that may affect the scope of part 70 for which no separate impact analyses are planned. These definition changes form the core of the discussion in the remainder of this section. No significant cost impacts were found to occur as a result of any of the proposed changes to the part 70 definitions.

1. Summary of Changes to Definitions

The changes to the definitions at § 70.2 include the following:

a. Definition Clarifications:

(1) Renumbering rule sections to ensure consistency in rule references.
(2) Extending the definition of EPA or Administrator to include the pronoun, her.
(3) Clarifying the definition of potential to emit to indicate that limitations are considered if they are

enforceable by citizens under the Act as well as the Administrator.

(4) Clarifying the grammar and providing cross-references to existing language concerning designated representatives at title IV affected sources.

(5) Clarifying that emissions from a support facility are to be included when determining major source status and providing a clearer definition of support facility.

b. Definitions Included/Deleted in their Entirety:

(1) Major new source review (included)
(2) Minor new source review (included)
(3) Permit modification (deleted)
(4) Section 502(b)(10) changes (deleted)
(5) Title I modification (included)

c. Revisions to Definitions:

(1) Changes to the applicability requirements related to title VI to specify that only section 608 and 609 requirements are to be included in the permit and stipulating that affirmative action by the Administrator is required to add or delete sections of title VI from permitting requirements.

(2) Changes to the criteria for defining section 112 major sources, section 302(j) major sources, and part D of title I (nonattainment area) major sources.

(3) Establishes August 7, 1980 as a cutoff date such that source categories regulated under sections 111 or 112 of the Act prior to that date must have their fugitive emissions included in determining whether a source in that category is major.

(4) Adding to the definition of applicable requirement any limitations on potential to emit that are enforceable under the Act by the Administrator as well as citizens for purposes of offset credits or for complying with or avoiding applicability of applicable requirements.

2. Discussion of Revisions to Definitions

a. Title VI Applicability Requirements

As currently written, all standards or other requirements of title VI are defined as applicable requirements for purposes of title V, unless the Administrator takes specific action to exclude a title VI requirement. In effect, this establishes a default baseline that is all inclusive. The proposed revisions, would limit the title VI applicable requirements to those in sections 608 or 609 of title VI. Requirements under other

sections of title VI will not be considered applicable requirements, and an affirmative decision by the Administrator for inclusion will be required for them to ever become applicable requirements for part 70 purposes.

The immediate impact of this change is to reduce the set of title VI requirements that qualify as applicable requirements. This does not change the universe of sources for which title V is applicable. However, the complexity of permits would be reduced and the subsequent burden to sources and permitting authorities would fall. No quantitative analysis of this burden reduction has been performed. It is not possible to determine from the existing RIA what fraction of part 70 sources emit pollutants regulated under title VI. However, it is estimated that these sources and their applicable title VI requirements do not represent an important component of aggregate impact.

b. Major Source Definition

The current part 70 definition of source is based on common ownership, adjacent or contiguous properties, and the same two-digit Standard Industrial Classification (SIC) code. A change is required to make the language in the part 70 rule consistent with the 40 CFR part 63 rule and the Act.

The current RIA contains an estimate of major toxics sources based on information contained in the Toxic Release Information System, 12,910 of which would be regulated under part 70. This estimate is consistent with the source definition that does not require use of two-digit SIC codes in defining the source. Since the number of sources was originally estimated based on a definition that did not include two-digit SIC codes in the determination, the original costs reflected in the baseline analysis are correct.

c. Inclusion of Fugitive Emissions

Under the current part 70, emission level calculations for determining major source status include fugitive emissions at sources in categories regulated under sections 111 and 112 of the Act, regardless of the time the source category became regulated.

The proposed change to part 70 constitutes a relaxation of the previous interpretation and establishes consideration of fugitive emissions only for source categories regulated under sections 111 and 112 prior to August 7, 1980.

The RIA for the current part 70 is based on a predicted 34,324 major sources. There is no estimate of how many of these sources may be affected by this change. However, it is EPA's intent to include these sources in the part 70 program to the extent EPA has included them in the NSR program. Once this change is made, the number of sources to which part 70 is subject will be consistent with the baseline ICR and RIA.

The only impact of this change is a potential delay in incurring the costs of the part 70 program for sources in those categories regulated under section 111 or 112 after August 7, 1980 that would be considered major only if fugitives were included in their emissions calculation.

B. § 70.3 - Applicability

1. Section 112(r) Pollutants - § 70.3(a)(1)

This change assures that sources that would be defined as major due to potential emissions of pollutants regulated only under section 112(r) of the Act but not major for any other regulated pollutant are not considered part 70 sources. When the rule for section 112(r) sources was proposed, it contained 160 pollutants, some of which are not otherwise regulated under the Act. The position of EPA with respect to pollutants regulated only by section 112(r) of the Act is that a source is not considered major for purposes of part 70 if the source emits major amounts of a pollutant that is regulated only by section 112(r), and does not emit major amounts of any other regulated pollutant. The proposed change is consistent with the costs reflected in the baseline analysis which was conducted before the list of section 112(r) pollutants was released.

C. § 70.4 - State Program Submittals and Transition

1. Judicial Review - § 70.4(b)(3)(xii)

Persons wishing to obtain judicial review of permit actions

have 90 days after the permit is issued or 90 days after new grounds for judicial review arise, if after the deadline for judicial review, to file petitions. The permitting authority may shorten this period. Persons include the source, anyone who participated in the applicable public participation process, and anyone else allowed by State or local law.

The proposed revision to part 70 would extend this period up to 125 days. The result would be an easier process for preparing petitions, not necessarily more petitions. There would also be an additional 35 days before the permit would be free from the possibility of judicial review.

Any specific source may have more uncertainty with respect to review of its permit for a longer period. On the other hand, a source may want the extra time to challenge its own permit. Finally, the permitting authority would not have to provide the entire 125 days. Therefore, little to no adverse effects are expected from this revision.

2. Early Reduction Demonstration - § 70.4(b)(11)(iii)

Section 112(i)(5) of the Act allows a source to delay the effective date of a MACT standard that will apply to it if the source reduces its emissions by 90 percent (95 percent for PM-10) prior to the MACT standard being set. For the deferral to be effective, this reduction must be incorporated into the part 70 permit of the source making the decrease.

The time period for acting on an application for an early reduction under section 112(i) of the Act would be changed from 9 months to 12 months. This proposed revision to part 70 is merely to bring part 70 into conformance with EPA's early reduction regulations which establish the 12 months.

3. Operational Flexibility

a. Elimination of Section 502(b)(10) Changes - § 70.4(b)(12)

Part 70 contains an operational flexibility option termed "section 502(b)(10) changes" that allows changes at a source that contravene an express permit term but do not violate applicable

requirements or federally-enforceable source monitoring provisions. The restrictions governing this type of change are drawn tightly to limit such changes to those permit terms that are unrelated to enforcing the applicable requirements of the Act. The cost impact of this change is believed to be inconsequential, since the type of changes that would actually be allowed under this concept would have only included minor corrections to related to elimination of extraneous terms that were detected in permits. This relief would have been relevant in the unlikely case where a permitting authority would have poorly drafted a permit and the source would have failed to challenge the need for the extraneous terms.

b. Trading Under Permitted Emissions Caps - § 70.4(b)(12)(i)

This action clarifies requirements for trades under emissions caps established within part 70 permits. These caps are in addition to those allowed under an applicable requirement and as such operate independently. The proposed change makes clear that the permitting authority must allow trading under such caps only if it determines that the trading plan proposed by the source is consistent with all applicable requirements (including SIP provisions governing trading) and meets the criteria for responsible emissions trades. The permitting authority could not reject a trading proposal simply because as a matter of policy it does not allow trading in circumstances when SIP or other applicable requirements would not otherwise restrict such trading.

The only reason that a source would include trading provisions in its permit submittal would be because of a perceived economic or competitive advantage. Consequently, it is reasonable to assume that in those instances where sources take advantage of operational flexibility provisions, those instances must constitute a benefit to the source. However, no estimate of the "opportunity savings" to sources that implement the operational flexibility provisions of part 70 has been made and

this report assumes that the economic and competitive advantage to sources is zero.

c. Trading Under Implementation Plans - § 70.4(b)(12)(ii)

The EPA does not propose changing these provisions significantly, other than to clarify that sources must identify in the permit those permit conditions that can be replaced with emissions trading provisions.

This change represents the original intent of the July 1992 rule, as included in the existing RIA and ICR. The only reason that a source would include trading provisions in its permit application would be a perceived economic or competitive advantage that would be obtained. As this provision is voluntary, this analysis assumes these advantages to have a zero value.

4. Off-Permit - §§ 70.4(b)(14) and (15)

The current rule allows changes at facilities to occur without the need for a prior permit revision, provided those changes are not "addressed or prohibited" by the permit. This has been commonly referred to as the authority to make "off-permit" changes.

Treatment of off-permit changes is embodied in three regulatory provisions of the current part 70. Section 70.4(b)(14) gives permitting authorities the option of allowing changes at a source to occur without a prior permit revision provided the changes to do not violate applicable requirements, and provided that sources are required to provide notice to EPA and the permitting authority and to keep a record of off-permit changes that trigger applicable requirements. Section 70.4(b)(15) further requires that operating permits programs expressly prohibit changes that are modifications under any provision of title I of the Act or that are subject to requirements of title IV from occurring without a permit revision. Finally, § 70.5(a)(1)(ii) allows sources to apply for a permit change up to 12 months after the operation of certain title I modifications.

The EPA has proposed to eliminate § 70.4(b)(15) and change the other two provisions that would have the effect of limiting off-permit in two important ways. First, proposed changes to § 70.4(b)(14) would restrict qualifying changes to those which are not prohibited or addressed by the permit and would not be emissions increases. The proposed change to § 70.5(a)(1)(ii) would required applications for permit revisions within 6 rather than 12 months after operation of any qualifying off-permit change.

The cost impact of the proposal to revised the applicability of the off-permit provisions is already accounted for in the computation of a revised baseline. That is, the effect of including minor NSR changes as title I modifications already elevates the cost of the currently approved ICR to a level that accounts for the administrative effects of proposing to limit the availability of off-permit. In fact, the $341 million estimate of incremental cost acts as an upper bound to the potential impact beyond the current ICR, since some of the minor NSR approved changes may either involve no emissions increases or conflicts with existing permit terms. Such changes could still qualify under the proposed criteria for off-permit. The proposed change to the time period before applications are due (i.e., 6 months rather than 12 months after operation) is not thought to have any significant cost effect but is subsumed into this worst case estimate.

5. Interim approval criteria - § 70.4(d)

A revision to the interim approval criteria is proposed to allow use of this program approval mechanism for those situations where a permitting program allows the use of the minor permit modification process to incorporate changes into a part 70 permit that have previously been subject to minor NSR. The criteria for determining applicability of the minor permit modification process precludes use of this process for title I modifications. Since EPA's current interpretation is that minor NSR changes are title I modifications, these programs would not meet the

requirements of part 70. Either EPA would have to disapprove these programs or would give them interim approval if they otherwise substantially met the requirements of part 70. There is one provision in § 70.4(d)(3)(iv), however, that would prevent interim approval being granted. That provision requires, for interim approval to be granted, public participation for all permit revisions other that minor permit modifications (as defined by EPA which would not include minor NSR changes). The minor permit modification process contains no provisions for public participation.

The proposed change would modify this interim approval criteria to require public participation for all changes other than minor permit modifications and those minor NSR changes processed as minor permit modifications. This would allow these programs to be granted interim approval and begin operation rather than face disapproval.

6. Permit Transition - § 70.4(h)

A clarification is proposed to be added to part 70 to make it consistent with the acid rain regulations in 40 CFR part 72. This change is only a link to the acid rain regulations concerning EPA's issuance of phase II acid rain permits if the permitting authority fails to implement a phase II acid rain program. A similar addition for consistency with the acid rain regulations is proposed to be made to the phase II permit application submittal provisions of § 70.5(a)(1)(v). These are not new requirements and, therefore, constitute no additional impact.

7. Program Revisions - §§ 70.4(i) and (j)

a. Transition - § 70.4(i)(1)

Revisions to approved part 70 programs may be necessary when relevant State or Federal statutes or regulations, including part 70, are revised, modified, or supplemented. The requirement for program revisions ensures that the part 70 program of each State or local agency will keep pace with evolving regulations and will be adequately enforced.

Some program revisions may be routine and can be accomplished within existing regulatory and legal constraints. Adequate response to other program revision requests may require additional regulatory development or legal authority at the State or local level. The existing part 70 rule recognizes that additional time may be required by permitting authorities when changes in statutory authority are needed to adequately respond. Upon demonstration by the permitting authority that additional legal authority necessary, program revisions must be completed within 2 years following notification by the Administrator. In other cases, part 70 requires program revisions to be completed within 180 days, or such other period as specified by the Administrator. The proposed timetable for program submission simply clarifies the intent of the current part 70.

The proposed revisions also would consolidate language of the existing rule which now contains provisions in §§ 70.4(a) and (i) which stipulate when changes to programs must be submitted vs. accomplished, respectively. This clarification has no incremental impact since it merely puts the current provisions on the same basis and reaffirms the current level of stringency. It does not impact the number of required program revisions or the activities needed to perform a program revision. As a result, the incremental impact of the proposed changes is expected to be minimal.

b. Savings Provision - § 70.4(j)

A provision is proposed to be added to part 70 to account for the promulgation of revisions to part 70 during a time when initial program submittals are being reviewed by EPA. This provision provides additional flexibility to permitting authorities beyond the program revision requirements discussed in the previous section. It would do so by allowing, during a 6-month period after promulgation of the part 70 revisions, programs to be evaluated for approval against either the original or the new part 70, or a combination of either. Depending on timing of the promulgation of the part 70 revisions and program

submittal, this provision offers flexibility to agencies to minimize the program modifications that will have to be made by allowing them to meet all or some of the revised part 70 provisions in their initial program submittal.

No quantitative assessment of the positive effects of this provision have been made due to the unknowns of how many programs will be submitted late and how many agencies will take advantage of this provision.

D. § 70.5 - Permit Applications

1. Timely Applications - § 70.5(a)(1)

The impact of the proposed revisions to § 70.5(a))(1)(ii) of the current part 70 have already been addressed in the previous discussion on off-permit changes.

2. Complete Application - § 70.5(a)(2)

The proposed clarification to § 70.5(a)(2) would only reaffirm EPA's original intention that to be deemed complete, the application need only contain that information sufficient to allow the permitting authority to begin processing the application. Since the intent of the proposed change is the same as that of the original RIA, therefore, there is no other change in impact between the current and the proposed rule.

3. Major Source Determination - § 70.5(c)

A clarification is added to § 70.5(c) to indicate that emissions from insignificant emissions units or activities may not be discounted when calculating the emissions from a source to determining if the source is major. This is only a clarification and was understood when developing the RIA for the current part 70. Consequently, there is no impact of this change.

4. Identification of Emissions Units In The Permit - § 70.5(c)(8)

This proposed addition to part 70 would have the source identify in the permit application those emissions units at the source that would be eligible for de minimis permit revisions and for alternative operating scenarios. The impacts of the part 70 revisions related to alternative scenarios have already been

analyzed under §§ 70.4(b)(12)(i) and (ii). The impacts related to de minimis permit revisions are analyzed in the discussion of § 70.7(f). The inclusion of this information in permit applications is merely for consistency with these sections.

5. Requirements for Additional Information - § 70.5(c)(9)(vi)

Section 70.5 (c)(8) specifies the information that should be in the compliance plan for a source. The proposed change reaffirms the original intent of the section, as evaluated under the existing RIA. Consequently, no additional impact will result from the proposed change.

E. § 70.6 - Permit Content

1. Definitions of "Prompt" and "Upset" - § 70.6(a)(3)(iii)(B)

A provision is proposed to be added to part 70 to have the permitting authority define "prompt" in its program regulations with respect to reporting deviations from permit requirements. The requirement for sources to report such deviations promptly is in the current part 70. This addition would only stipulate that the definition as to what prompt means would be included in the permit regulations to avoid confusion. This provision would require the permitting authority to develop the definition and revise its regulations to include the definition. It is estimated the resource burden to develop this definition and include it during the regulatory revision process would be quite small (i.e., about 160 hours per agency).

Currently, part 70 requires reporting deviations from permit requirements (as discussed in the previous paragraph), including those attributable to upset conditions. A provision is being proposed to clarify the original intent of current part 70. That is, the permitting authority must define upset conditions in the permit. No additional burden would thus occur.

2. Applicable Requirements - §§ 70.6(a)(8) and (10)

Small changes have been made in the requirements for permit content to insure consistency with the changes previously

discussed relevant to operational flexibility. The significance of these changes has already been presented in that discussion.

3. Alternative Operating Scenarios - § 70.6(a)(9)

Part 70 currently requires that reasonably anticipated alternative operating scenarios requested by a permit applicant must be included in the operating permit. Each alternative scenario must meet all applicable requirements of part 70 and the permittee must keep a contemporaneous record of changes among alternative scenarios in an on-site log. The intent of this section of part 70 is to promote operational flexibility by allowing sources to shift among operating scenarios that have been included in their permit without going through a permit revision process.

Petitioners have argued that the current rule could allow sources in certain situations to manipulate log entries so that required monitoring data could be reported, at a later date, in ways that were advantageous to the source. This could occur if various operating scenarios included similar terms and conditions for monitoring to assure their compliance.

The proposed change at § 70.6(a)(9) would continue to allow a source to switch to an alternative operating scenario provided that each operating scenario is monitored in a way that yields objective, contemporaneous measurement and recording of the approved monitoring parameters for that scenario. However, if the monitoring regime did not indicate the scenario, the source would have to report, in the week following any change, notice of any change(s) between scenarios. Thus, the permitting authority would always have information to indicate the scenario under which the source were operating at any time.

F. § 70.7 - Permit Revisions

To appreciate the scope of the potential changes to the burdens on permit applicants and permitting agencies, the overall process must be examined at one time. Therefore, instead of a discussion of baseline, regulatory impact, and other impacts for each proposed change, this section of this report will provide

only one such set of analyses at the end of the section.

1. Administrative Amendment - § 70.7(e)

This proposal retains the provisions of the current rule at § 70.7(d)(1)(i)-(iv) allowing certain clerical changes, changes that result in more frequent monitoring and reporting, and change of ownership or operational control as specified in the current rule. Also retained are the provisions allowing State or local permit programs to establish other changes similar to those in § 70.7(d)(1)(i)-(iv) provided they are approved by EPA.

In addition, the proposal provides for processing changes that decrease emissions as administrative amendments if the changes are not the result of complying with Maximum Achievable Control Technology (MACT), Best Available Control Technology (BACT), Lowest Achievable Emissions Rates (LAER), new source performance standards (NSPS) or reasonably available control technology (RACT) requirements, and provided that the gatekeepers for increment-based de minimis changes are met (described in the following section).

The final type of administrative amendment consists of changes made pursuant to a part 70 processed "merged" with NSR or the section 112(g) process. (The term "enhanced" NSR under the current rule, which refers to a NSR program that meets the procedural requirements substantially equivalent to §§ 70.7 and 70.8 and compliance requirements substantially equivalent to those of § 70.6, would be deleted.) Merged part 70/NSR or part 70/section 112(g) preconstruction review processes comply with the permit application and permit content requirements of part 70 and NSR or section 112(g) programs, and provide for minimum elements of public process. These elements are:

(1) prior notice (before construction) to the public, EPA, and affected States of proposed NSR or 112(g) actions;

(2) public comment of at least 30 days for major NSR or section 112(g) changes (or for minor NSR changes, as many days as the State or local agency's existing minor NSR regulations require, but not less than 15); and

(3) an opportunity for a public hearing for major NSR action under parts C or D of the Act. The public comment period, and hearing if required, would occur prior to any permitting authority authorization for the source to construct. Permitting authorities may provide merged process for all or some of their preconstruction determinations or to allow sources to elect merged process on a case-by-case basis.

2. De Minimis Permit Revisions - § 70.7(f)

The proposal establishes a new de minimis permit revision process for changes whose small size in many cases warrants a more streamlined process than EPA would propose for minor and significant permit revisions. The proposed rule provides that State or local permit programs may allow sources to make de minimis permit revisions under the process described below, provided that the extent of the source's ability to make the change is approved (i.e., preauthorized) in the source's part 70 permit. The permitting authority would have discretion regarding whether or not to include such preauthorization in a source's permit and the scope of that permit term (i.e., the permit would specify the units at which such changes could or could not be made and the size of the changes that could be made, up to the de minimis threshold levels set forth below). The public would have the opportunity to comment on the pre-authorization permit term at the time it is proposed.

The source would provide notice of changes made under the de minimis permit procedures on a monthly, batched basis to "interested persons," and the permitting authority would be required either to establish a public docket of requests for de minimis permit revisions or provide other, substantially equivalent public access. The permitting authority would retain authority to disapprove any requested de minimis permit revision for a specified period after the change is made, except under specified circumstances. The public would have the opportunity to persuade the permitting authority to disapprove any change within the specified time period and to petition EPA it they were

unsuccessful in persuading the permitting authority to disapprove the change.

The EPA proposes two de minimis permit revision categories: unit-based and increment-based. Unit-based permit revisions would include the addition of small new units that are below the unit-based threshold and the modification of small existing units if the allowable emissions from the modified unit after the change are below the unit-based threshold. Increment-based would include small increases at units of any size if the increase is below the increment-based threshold. A range of thresholds defining the de minimis categories are presented in this proposal.

3. Minor Permit Revisions - § 70.7(g)

Compared to the current minor permit modification process, EPA proposes to substantially broaden the universe of changes eligible for minor permit revision treatment, and to simultaneously enhance the public notice and procedural elements of this revision track in order to make the permit revision process, and the permit program in general, more usable for sources, permitting authorities, affected States, the interested public, and EPA reviewing offices.

4. Adoption Into the Permit of Changes in Monitoring Methods or Procedures

The EPA recognizes that modifications in source operation may affect or alter the method by which a source monitors compliance. Such monitoring changes may range from a simple recalibration of the existing monitoring devices, to a request for an entirely new monitoring method. The current part 70 provides that any "significant" change in monitoring must be processed as a significant permit modification. Part 70 does not define the term significant, beyond identifying a "relaxation" in reporting or recordkeeping terms and conditions as significant, leaving further distinctions to be defined through guidance and case-by-case analysis. The only changes in monitoring that are clearly identified in part 70 as appropriate for a lesser level

of review are increases in monitoring and reporting frequency, which may be implemented through an administrative amendment.

The EPA now believes that the treatment of virtually all monitoring changes as significant permit modifications under the current part 70 could be inconsistent with the goal of providing expeditious, streamlined, and adequate review of permit revisions. Moreover, while the proposed four-track permit revision system would provide some flexibility for may types of changes requiring permit revisions, EPA is concerned that this flexibility could be limited if permitting authorities find it too difficult to apply the eligibility criteria and associated changes to the existing monitoring methods are required to undergo greater review than the associated physical or operational change. Consequently, to avoid this problem, EPA also proposes as an option alternative provisions governing changes involving monitoring requirements that recognize the need for certain types of changes to existing monitoring methods to undergo more expedited review through an appropriate permit revision track, obviating the need to rely on the term "significant" in the existing part 70 regulations to determine what changes must be processed as significant permit revisions. In structuring the review for changes to monitoring or recordkeeping requirements under this option, EPA has essentially adhered to the four-track system proposed today.

The EPA expects the proposal on the treatment of monitoring changes will result in lower administrative costs since the additional types of changes will now qualify for more expeditions permit revision procedures. On the other hand, greater costs will be incurred to demonstrate and review the adequacy of the proposed monitoring changes which in part might be appropriately ascribed to this proposal. The EPA expects that the projected savings essentially will at least offset the anticipated new costs associated with demonstration and review.

5. Reopenings - § 70.7(i)

Under the proposal, reopenings would occur for two

situations. The first is where MACT standards are promulgated prior to permit issuance, but have a compliance demonstration deadline after permit issuance. In this case, the permit would be reopened at that deadline to incorporate compliance requirements of the MACT standard. The second situation is where the permit is issued before the MACT standard is promulgated. In this case, the permit would be reopened in a two-step process; first as an administrative amendment and second as a minor permit revision.

The effect of these two proposed processes is to create a savings over the current requirement that all reopenings follow initial permit issuance procedures.

G. § 70.8 - Permit Review by EPA and Affected States

1. Public Petitions to EPA - § 70.8(d)

If the Agency does not object to a permit within 45 days, the public has additional 90 days to petition EPA to object. There is no provision in part 70, however, to let the public know when the 45-day period begins or ends. The proposed change to § 70.8(d) would require that the permitting authority provide information on the beginning and end of EPA's 45-day review period. No specific provisions are listed. The permitting authority would not have to give the public notice, but only make some allowance so the public could gain the information. This could take the form of a hot line, a computer terminal at the permitting agency office, a bulletin board, or any other reasonable measure which the public could use to get real time information.

This change represents an insignificant increase in the Federal burden of implementation of the title V program. It also provides an opportunity for promoting the President's policy for environmental justice by providing EPA an opportunity to ensure that adequate effort is made in informing and including minority communities in the permit review process.

H. § 70.9 - Fee Determination and Certification

The proposed changes to part 70 clarify that demonstration

of fee adequacy will be an ongoing process and that periodic review will be necessary by EPA. The proposed change is consistent with the original part 70 rule language and, therefore, does not impose any additional impacts under the existing RIA.

I. § 70.10 - Federal Oversight and Sanctions

The addition of § 70.10(a)(2) to the proposed rule revisions makes it clear that sanctions will only be applied in areas of nonattainment, as defined under part D of title I of the Act. Revisions to § 70.10(a)(1) specify the conditions upon which a State or local agency may be subject to sanctions. Sanctions may be applied if a complete part 70 program has not been submitted in a timely manner; if revisions to address deficiencies in a program granted interim approval are not submitted prior to 6 months before expiration of the interim approval; or the Administrator disapproves a part 70 program.

Under revisions to the existing § 70.10(a)(2), proposed to be renumbered as § 70.10(a)(3), the Administrator will impose a whole or partial Federal program, as appropriate, after November 15, 1995 unless the program was granted an interim approval and the interim approval has not expired by November 15, 1995. If an interim approval expires after November 15, 1995 and full approval of a whole part 70 program has not been granted, the Federal program will be applied.

The proposed rule revisions clarify the imposition of sanctions associated with the disapproval of part 70 permit programs or the expiration of interim approvals, and the imposition of a Federal permitting program when a State or local program is not submitted or approved. The proposed changes constitute clarifications only and do not impose any additional impacts under the existing RIA.

J. § 70.11 - Requirements for Enforcement Authority

The proposed rules would allow permitting authorities the use of "mental state" as an element of proof for penalties higher than $10,000 per day per violation. The proposed changes

constitute an expansion of flexibility for permitting authorities and does not impose any additional impacts under the existing RIA. For those States where mental state is a required consideration in assessing civil penalties, the original language in the July 1992 rule would have resulted in a need for significant legislative action to make their rules approvable or would have made their part 70 programs unapprovable if these changes were not made.

From this rulemaking, the Agency expects costs to decrease for those permitting authorities that would have had to revise their State or local laws to match the Federal regulations. Therefore, this part of the proposed changes to part 70 reduces legislative costs that would have been imposed under the original RIA. As the original ICR did not address or consider the potential conflict between State or local law and Federal requirements, no adverse impacts associated with the this problem were estimated. The change in language that allows permitting authorities to consider mental state is, therefore, consistent with the costs presented in the ICR and RIA.

IV. ANALYSIS OF IMPACTS INCLUDING PAPERWORK COSTS

This section of the report discusses the cost of the proposed changes to part 70. In all cases, the baseline, methodology, and instrumental values such as wages and levels of effort are the same as those found in the current part 70 ICR.

A. Baseline Analysis

For purposes of comparing the true impact of the rulemaking on similar baselines, the Agency has used a "modified" baseline analysis of those line items from the current ICR that are related to permit revisions. Table IV.1 illustrates that baseline analysis. The EPA has also evaluated the effect of the proposed changes from the current ICR baseline approved by OMB.

1. Permit Revisions Baseline Conditions

Under the current part 70, the cost of permit revisions was based on an estimated 18,598 annual occurrences according to the following distribution: 9,160 would be large major sources making

one permit revision per year; the remaining 25,164 would be small major sources of which half (12,582) would be covered under general permits and the other half would average 0.75 permit revisions per year (9,438 revisions per year). The current ICR distributed significant permit modifications and minor permit modifications among these two categories according to an industry and permitting authority derived best estimate of probable occurrences.

The EPA believes that this baseline should be adjusted to reflect the effect of precluding the availability of the off-permit provisions to minor NSR actions since as title I modifications they would not qualify as off-permit changes. The increased costs associated with the adjustment are principally those related to accomplishing permit revisions before renewal of the permit. While OMB has not approved this adjustment in baseline costs, EPA believes that the current ICR is understated without this effect. This adjusted baseline is appropriate for evaluating the effect of the proposed part 70 changes since they would again restrict the availability of off-permit treatment for minor NSR actions. This restriction stems from the reduced availability of off-permit and not from the consideration of such changes as title I modifications.

To compute the adjusted baseline, EPA assumed three minor NSR revisions per large major source per year and two minor NSR revisions per small major source per year, for a total of 52,646 minor NSR revisions annually. It is also assumed that 3,150 large and 1,350 small major source minor NSR revisions were already included in the current ICR to account for minor NSR actions which could not have remained off-permit until renewal due to conflicts with existing permit terms. Subjecting these changes to the administrative costs associated with making significant permit modifications results in a revised baseline cost of $459 million for the permit revisions line item, or an additional $341 million over the same line item in the current ICR.

Table IV.1

TOTAL EFFECT OF PROPOSED CHANGES

ITEM	ORIGINAL ICR	ADJUSTED BASELINE ICR
Number of Sources	34,324	34,324
Burden Hours (millions)		
State/Local	1.7	2.5
Industry	6.6	7.8
Federal	0.4	.4
TOTAL	8.7	10.7
Annualized Cost (millions)		
State/Local	160	177
Industry	512	583
Federal	14	13.5
TOTAL	526	596.5
Annualized Cost per Source (dollars)	$14,916	$17,379

B. Line Item Analysis of Impacts

Table IV.2
ANTICIPATED ECONOMIC IMPACT FOR PROPOSED CHANGES TO Part 70 [1]

Category / Regulation	Total Burden	Current RIA and ICR Marginal Burden	Revised Baseline Marginal Burden
Permit Revisions	$198,169	$80,293	($260,821)
Interim Approval	$0	$0	$0
Operational Flexibility			
70.2	$0	$0	$0
70.4(b)(12), (b)(14), (b)(15)	$0	$0	$0
Subtotal Operational Flexibility	$0	$0	$0
Other Provisions			
70.2	$0	$0	$0
70.3(a), (b)(1)	$0	$0	$0
70.4(b)(4)(b)(3)(xii), (i)(2)(ii)	$0	$0	$0
70.5(a)(1)(iii), (a)(2), (c)(8)(vi)	$0	$0	$0
70.6(a)(8)	$0	$0	$0
70.6(a)(9)	$268	$268	$268
70.7(a)(1)(iv), (a)(7)	$0	$0	$0
70.7(i)	($8,300)	($8,300)	($8,300)
70.8(d)	$0	$0	$0
70.9(c)	$0	$0	$0
70.10(a)(1)	$0	$0	$0
70.11(a)(3)(ii)	$0	$0	$0
Subtotal Other Provisions	($6,732)	($6,732)	($6,732)
TOTAL IMPACTS	$190,137	$72,261	(($268,853)

2. Permit Revisions

Table IV.2 presents the anticipated impacts of the proposed rulemaking. The cost impact to the current baseline is developed by assuming that all 66,744 revisions (the additional 48,146 minor NSR revisions plus those permit revisions included in the

current ICR) will fall into one of four proposed permit modification tracks, (i.e., none of the additional 48,146 permit revisions will qualify for general permits). The Agency expects that the 66,744 anticipated revisions will be distributed among the four permit revisions tracks according to Table IV.3.

TABLE IV.3

THE DISTRIBUTION OF OCCURRENCES AMONG ALTERNATIVE REVISION TRACKS

REVISION TRACK	Original part 70	Minor NSR Actions	Total
Significant Permit Revisions (SPR)	2,232	963	3,195
Minor Permit Revisions (MPR)	1,860	7,225	9,084
Administrative Amendments (AA)	12,275	5,298	17,573
De Minimis Permit Revisions (DMPR)	2,232	34,678	36,910
Total	18,598	48,164	66,762

From the baseline approved in the current ICR, the proposed changes to the part 70 permit revision process constitutes a significant increase in the burden placed on sources of $80 million annually. In addition, part 70 requires permitting authorities to "pass on" any administrative costs associated with their operating permits programs in the form of permit fees. Consequently, the true regulatory burden to sources is $72 million. This conclusion of a cost increase from the current ICR is exclusively the result of the need to revise almost 50,000 permits each year which would not have been required under the previous interpretation.

Alternatively, the Agency believes that the proposed changes to streamline the current part 70 permit revision process may be viewed as a net savings of $269 million. As previously mentioned, EPA believes that the ICR <u>understates</u> the regulatory burden of part 70 by $341 million, ($158.6 million to sources, $160.3 million to States, and $22.3 million to the Federal

government). This additional cost is needed to account for the consequences if minor NSR changes are incorporated into part 70 permits and not allowed to remain off-permit until renewal.

In addition to administrative costs, other costs may accrue as a result of delay to sources making operational changes. These costs are in the form of foregone returns due to the delay. In some instances, the affected source still sells the product, but does so at a later date. In other instances, the sale is lost to another competitor.

The EPA recognizes that, in some instances, the cost of delay is unavoidable and hence real. Regardless of the size of the delay cost, it may or may not be additive to the other elements of the societal cost of this regulation. If customer demands are satisfied with no additional costs to them (no change in consumer surplus) and sales are merely transferred from one producer to another, the opportunity cost to the source is merely part of a transfer. Hence, it is not part of the societal cost of the regulation. On the other hand if the customer has to pay more for the product and there is a decrease in economic surplus, the cost of delay should be added to the societal cost of this regulation.

The EPA believes that few sources should experience additional opportunity costs under the proposed part 70 revisions because there are numerous avenues of relief available either under the unchanged portions of the part 70 rule, or included in this rulemaking. These avenues serve to avoid or mitigate the opportunity cost of delay associated with permit revisions. For example, opportunity costs can be totally avoided if the source designs a permit which accommodates the operational change without any need for revision. Next, approximately eighty percent of the NSR actions are assumed to qualify for processing as *de minimis* permit revisions which should experience no operational delays to accomplish. In addition, of the 48,146 universe of source changes subject to NSR, several should qualify for the administrative amendment process. By definition, these

revisions would incur no additional operational delay. Another significant portion of the relatively few remaining revisions would be eligible for off-permit treatment under the revised criteria, which allows qualifying sources up to 6 months after making the change to apply for a conforming permit revision.

Thus, only those NSR actions which met a series of very strict requirements could potentially experience additional opportunity costs. To meet these requirements, the revision would have to: (1) have not been pre-programmed into the source's permit, (2) result in net emissions increases, (3) not qualify for *de minimis* permit revision procedures, and (4), at the option of the permitting authority, choose not to use a merged NSR/part 70 program (i.e., a program that combines in one review process the procedures and substantive requirements of both programs). The OMB estimates that approximately 1,250 minor NSR actions per year will meet these four conditions and would have to use the minor permit revision track, potentially experiencing delays of up to thirty days.

The OMB has suggested that opportunity costs, when they are applicable, could be about $15,000 per day of delay for some sources. Based on the following discussion, the Agency believes that opportunity costs of $15,000 per day establishes an upper bound that would seldom be applicable. The opportunity cost of the proposed changes to the part 70 revisions process would be revealed primarily through foregone after tax revenues. Assuming a 10% after tax return on sales, sources incurring a $15,000 per day loss would have to lose daily sales of $150,000. Assuming a full thirty day delay in operations, this would translate into a total cost of $450,000, or, in terms of lost revenues, $4.5 million. For all corporate, partnership, and non-farm proprietorship returns for 1989 (p.531 1993 Statistical Abstract of the United States), less than 4% had revenues in excess of $1 million. Consequently, an even smaller percentage of these businesses would have had sales in excess of $4.5 million. Therefore, a relatively small percentage of the sources subject

to minor NSR actions would be expected to have opportunity cost of this magnitude.

For most businesses, revenues are much smaller than $1 million per year, and, therefore, so must be their scale of operations. A more realistic representation of the cost of operational delay to the majority of affected sources may be found in a sensitivity analysis which uses $150 per day in foregone after-tax profits. This would translate into opportunity costs of $4,500 per revision. Consequently, if a source experiences operational delays, it can expect them to be in the range from $4,500 to $450,000 per occurrence, with the distribution of those costs heavily favoring the lower end of the scale. For the entire universe of minor NSR actions which have the potential of incurring operational delays, the expected annual opportunity costs from those delays ranges from $0 to $563 million, with the total being more probably near $5.6 million per year.

In counterpoint to the above discussion, the proposed changes to part 70's revisions process also provide relief from some opportunity costs. Under the proposed four track revision system, title I modifications that would have had to occur under the significant permit modification track will now be able to take advantage of three faster tracks. The *de minimis* permit revision track and the administrative amendment tracks are anticipated to have no operational delay associated with them. For the minor permit revision track, the operational delay is limited to a maximum of thirty days. In contrast, the significant permit revision process could result in delays of up to eighteen months, with no real means of determining beforehand just how long the actual delay would be for a particular revision. Consequently, making the minor permit revision process available to minor NSR actions allows sources to avoid lengthy delays and to reduce the level of uncertainty associated with its planning process. Given that all 48,164 minor NSR actions would have had to utilize the significant permit modification track and

that under the proposed changes to part 70, only 1,250 of these actions would potentially incur operational delays, it is reasonable to assume that the marginal relief from opportunity costs provided by the four track revision process appears to greatly, if not totally, offset the cost of operational delays resulting from the minor permit revisions track.

3. Interim Approval

The EPA believes that the proposed additional opportunities for granting interim approval will result in the avoidance of sanctions and unnecessary imposition of a Federal operating permits program. However, EPA believes that although these avoided costs may be significant, they are not quantifiable. Given that the impacts of these proposed changes to 70.4(d)(3)(iv) are, by nature, an economic improvement over the current part 70 rules, and given that a program with interim approval is, by definition, a condition outside the realm of an RIA, the EPA does not believe it is necessary for a more comprehensive analysis of the proposed changes to 70.4(d)(3)(iv) at this time.

4. Operational Flexibility - § 70.4(b)(12)(i)

Essentially, the provision in section 502(b)(10) provides an opportunity for the source to avoid compliance with provisions in its permit that unnecessarily constrain its operations in ways unrelated to implementing the Act's requirements. A well drafted permit, however, should not contain any such terms. Since almost no changes at a source are eligible as 502(b)(10) changes, the Agency expects the impact of this action to be negligible.

5. Reasonably Anticipated Alternative Operating Scenarios

The only new requirement within the 70.6(a)(9) provisions is the incremental burden of additional reporting by the source following a change to another alternative scenario where the monitoring does not change to the extent to indicate the new scenario. Of the 34,324 original sources that would require permit revisions, the Agency expects that no more than twenty percent, or 7,000 sources would require alternative scenario

provisions within their permits. Of that 7,000 sources, somewhat more than half, approximately 4,000 would use alternative scenarios which used similar monitoring techniques. Of these 4,000 sources, about twenty five percent or 1,000 sources would actually make changes to an alternative scenario each year.

Permitting authority and Federal government oversight of the new reporting requirements involves additional recordkeeping and review of a sample of submitted reports. Since the submissions do not provide new information but are intended to verify operating conditions, each submission need not be reviewed. However, for purposes of this impact analysis, the Agency assumes that permitting authorities review all submittals, with each review requiring 2 person hours per report, for a State or local level burden of $70 thousand. Federal authorities will also review all of the logs, with each review requiring one half of a person hour, for an increase in Federal administrative costs of $18 thousand. Hourly rates for State/local and Federal authorities correspond to rates used in the part 70 ICR. The incremental costs of the proposed changes at § 70.6(a)(9) are summarized in Table IV.4.

Table IV.4
ESTIMATED COSTS INCURRED FOR REPORTING REASONABLY ANTICIPATED ALTERNATIVE OPERATING SCENARIOS

Affected Party	Activity	Occurrences per Year	Hours per Occurrence	Cost per Hour	Cost/yr in Thousands
Sources	Reporting	1,000	4	$45.00	$180
States	Recordkeeping and Review	1,000	2	$34.00	$70
Federal Government	Recordkeeping and Review	1,000	.5	$34.00	$17.5
TOTAL					$267.5

The Agency estimates the incremental burden of the proposed changes at § 70.6(a)(9) to be $267.5 thousand per year. These costs are borne by sources who have incorporated alternative operating scenarios within their operating permits and implement an alternative scenario, permitting authorities, and the Federal Government.

Due to the relatively small size of the burden and its restriction to only major sources, the proposed changes at § 70.6(a)(9) will not impose undue burden on small entities.

Source impacts are limited to reporting of information that is already being collected. Government entities have discretion in the level of review they perform. Consequently, the paperwork burden imposed by the proposed changes at § 70.6(a)(9) will not be excessive.

6. Monitoring Changes

Of the 18,598 permit revisions originally anticipated in the current ICR, approximately 4,500 revisions would have been associated with minor NSR changes that would need prior revision of the permit. The remaining 14,098 revisions includes some small number of permit revisions that needed to be made for monitoring purposes only. During the public comment portion of the enhanced monitoring (EM) rule development, none of the industry experts considered the need to revise an EM protocol once established in a permit to be a major consideration. The

EPA believes this observation should also be relevant for other types of monitoring changes as well. Consequently, the EPA conservatively estimates the number of strictly monitoring related changes to be less than ten percent of the universe of remaining revisions, i.e., less than 1,400 annual permit revisions. Of these, approximately seventy percent would be very minor, while twenty percent would occur for more complicated intra-plant monitoring changes. Only ten percent would occur for switches to another monitoring approach. The Agency believes that the additional burden to sources, States, and the Federal government for demonstration and reporting of these alternative monitoring techniques will have a negligible effect on the regulatory impact of the proposed part 70 changes. The Agency has made this determination for three reasons.

First, the change from one monitoring technique to another is a voluntary process. Firms will not switch from one method to another unless the additional costs of that change (through retrofitting, demonstration, and reporting) are less than the savings that the firm will enjoy that result from the change in monitoring technique (e.g., fuel savings). Therefore, if a source decides to change its monitoring method under an enhanced monitoring regime, it is not unreasonable to assume that the source expects to benefit from that change. Consequently, the voluntary aspect of the change in monitoring renders further analysis of the impact unnecessary.

Second, sources that want to change monitoring techniques cannot avoid the additional costs listed above. As the end of the permitting period approaches, the incentive for incurring that additional cost diminishes and the incentive increases for the source to wait until the permit comes up for renewal. Therefore, the universe of potential monitoring modifications is probably considerably less than the 1,400 assumed above. Consequently, the anticipated impact of the proposed changes to the monitoring portion of part 70 permits will again be insignificant.

Finally, the original ICR assumed that monitoring changes would fall under the heading of significant permit modifications. Consequently, those changes were subjected to the most costly revision process. The savings between the former significant permit modification track and the proposed de minimis and minor permit revision processes will be approximately $4 million. Under the proposed changes to the part 70 permit revision system, the Agency expects the total reporting cost for strictly monitoring related revisions to amount to less than $4 million. Consequently, even if the costs were attributable to part 70 instead of the monitoring rule, the Agency believes the net administrative cost of the proposed changes for monitoring related permit revisions would be zero.

7. MACT Requirements - § 70.7(i)

As described in the preamble, MACT standards (under section 112 of the Act) promulgated after permit issuance must be incorporated into the permit. For major sources with 3 or more years remaining on the permit term, the permit must be reopened to incorporate the standard within 18 months after promulgation of the new standard. Even if the MACT standard is promulgated before permit issuance, however, the permit may still need to be reopened to incorporate compliance requirements for the MACT standard. This is because detailed compliance requirements for most MACT standards will not be fully known until the deadline for the compliance demonstration. If the permit has already issued before these additional requirements become known, the permit must be reopened to include them.

Currently, part 70 requires reopenings to follow full permit issuance procedures. In calculating baseline cost, this analysis has therefore assumed that reopenings of permits will use the significant permit revision procedures.

Under the proposal, where the MACT standard is promulgated after permit issuance, the EPA would allow most MACT standards to be incorporated into permits using a two-part process. In the first part, the source would obtain an administrative amendment

to incorporate a compliance schedule and other obligations with respect to the MACT standard within 18 months after promulgation. The second part would involve a minor permit modification. The cost of the proposal in this case is therefore the sum of the cost of an administrative amendment and a minor permit revision. This compares to the cost of a significant permit revision under the current rule.

In this analysis, the situation just described is assumed to begin occurring in May 1996, since by then the permitting authority would have issued one-third of all permits and these would need to be reopened using administrative amendments to include MACT standards promulgated after May 1996. Similarly, by May 1997, another one-third of permits would have been issued, which would need reopening using administrative amendment procedures to incorporate MACT standards promulgated after May 1998. The effect of this is described below, after addressing standards that would be promulgated earlier. In both situations, of course, subsequent minor permit revisions (or significant permit revisions where indicated) would be needed, however, these are not represented in this analysis, since they would take place well beyond the May 1998 RIA analysis window.

Where the MACT standard is promulgated before permit issuance, but the compliance statement required under the MACT standard is due after permit issuance, the proposal would allow reopening of the permit using minor permit revision procedures. Comparing this to the current rule is a simple comparison of the cost of a minor permit revision to the cost of a significant permit revision.

For this analysis, it is assumed that the typical State permitting program will take effect in May, 1995 (i.e., that is when EPA would approve the program). Permits in such a typical State would initially be issued over a three-year period ending in May, 1998, with approximately one-third issued each year.

Next, the number of permit actions involving MACT standards must be determined. Table IV.5. shows the MACT standards with

compliance demonstration deadlines falling before May 1998 and the estimated number of sources that will both be subject to these MACT standards and be major sources requiring permits. Theoretically, States could organize their transition program such that permits were not issued to sources affected by these standards until after the compliance demonstration deadline. This would ensure that all requirements of the MACT standard were included in the initial permit and would not require any permit reopenings. However, States may not be free to adjust timing of permit issuance to this extent, or other pressures may work in favor of early permit issuance. Therefore, instead of assuming that no permit reopenings would be required for these sources, EPA has assumed that permits would be issued uniformly over the three-year period without regard to the timing of MACT standards.

For MACT standards with compliance demonstration dates by May 1996, EPA assumes that permits to sources affected by those standards would all issue after that date and there would be no reopening requirements where compliance demonstrations for the MACT standard followed permit issuance. For MACT standards with compliance demonstration dates by May 1997, one-third of permits for those sources would issue before that date and would need reopening by the compliance demonstration date. Similarly, for MACT standards with compliance demonstration dates by May 1998, two-thirds of permits for those sources would issue before that date and would need reopening. Applying this assumption to the number of sources indicated in Table IV.5. results in about 3500 sources that would require reopening of their issued permits. This figure would be reduced if States were able to delay permit issuance to account for MACT standards and to minimize reopenings.

In addition, permit reopenings will need to take place where compliance statement deadlines occur after the three-year period for initial permit issuance. Table IV.6. shows the MACT standards that EPA expects to issue with compliance demonstrations due after May 1998. The EPA estimates that about

4600 major sources will be subject to these standards. Since the compliance demonstration date for these standards are past May 1998 when permits would have been issued initially, all sources subject to these standards will need their permits reopened. Reopenings are assumed to require the minor permit modification procedures.

Based on the methodology and assumptions described above, the proposal would result in a per-incidence savings of $1,020. This represents the difference between the significant permit revision process and the minor permit revision process. When applied to the reopening of the 8100 permits described above, the total savings is about $8.3 million.

Finally, EPA expects to issue additional MACT standards after the promulgation dates represented in Tables IV.5. and IV.6. As described above, these standards would be promulgated after initial permit issuance, and would be incorporated into the permit through administrative amendment. Since EPA does not have an estimate of the number of sources that would be affected by these standards, it cannot estimate the number of occurrences or the total savings. However, the Agency has analyzed the per-incidence savings by comparing the burden costs of an administrative amendment to that of a significant permit revision. As shown elsewhere in this analysis, the difference in hours amounts to 108 hours for sources, 71 hours for States, and 6 hours for the Federal government. Multiplying these figures by the appropriate hourly cost gives a per-incidence savings of $7,478. Since at least several hundred sources are likely to be subject to these standards, significant savings may be assumed to be added to the $8.3 million figure quoted earlier.

Table IV.5
MACT Standards With Compliance Demonstration
Deadlines by May 1998

Regulation	Est. Promulgation Date (Mo, Yr) (* Actual)	Estimated Number of sources subject to part 70.	Date of Compliance Demonstration for Existing Sources (Est.) (Yr-Qtr)
Coke Oven Batteries NESHAP	Oct. 27, 1993*	30	1993-1 to 2010-1
Dry Cleaning NESHAP	Sept 22, 1993*	500	1994-2
Industrial Cooling Tower NESHAP	July 1994	800	1996-1
Chrome Electroplating NESHAP	Nov. 1994	1500 (approx.)	1995-3 to 1996-4
Magnetic Tape NESHAP	Mar. 1995	20	1996-3
Halogenated solvent cleaning	Nov. 1994	9400 (approx.)	1996-4
Commercial sterilizers	Feb. 1995	21	1997-1
Hazardous Organic NESHAP (HON)	April 24 1994*	370	1997-3
Secondary Lead Smelters NESHAP	May 1995	23	1997-4
Wood Furniture NESHAP	Nov. 1995	750	1997-4 to 1998-4

Table IV.6
MACT Standards with Compliance Demonstration
Deadlines after May 1998

Regulation	Promulgation Date (Est.)	Number of sources (est.)	Date of Compliance Demonstration for Existing Sources (Yr-Qtr) (Est.)
Pulp and Paper non-combustion NESHAP	Mar. 1996	160	1998-3
Off-site waste NESHAP	Nov. 1995	750	1998-4
Marine Vessels NESHAP	April 1995	350	1998-4
Petroleum Refineries NESHAP	July 1995	190	1998-4
Aerospace Industry NESHAP	July 1995	2800	1999-1
Printing and Publishing NESHAP	Mar. 1996	300	1999-1
Ship Building and Repair Surface Coating NESHAP	Nov. 1995	25	1999-1
Asbestos processing NESHAP	Nov. 1995	200	1999-2
Polymers/resins group I-IV	May 1995	176	1999-4

8. Other Provisions

The remainder of the proposed changes to part 70 constitute clarifications, minor definitional changes, editorial corrections, and similar changes that do not have any new impact on sources, States, or the Federal government beyond that which was considered under the current part 70 ICR.

V. ECONOMIC IMPACTS, REGULATORY FLEXIBILITY ANALYSIS, AND PAPERWORK REDUCTION ACT REQUIREMENT

A. Introduction

The Regulatory Flexibility Act requires Federal Agencies to review the effects of their regulations on small entities and to involve these entities more actively in development and reviewing regulations. The Agency has expanded upon this requirement by requiring a regulatory flexibility analysis for any rulemaking that will have any impact, no matter how small, on any small entity. The term "small entities" includes small businesses (less than 100 employees), small governmental jurisdictions (less than 50,000 citizens), and small organizations. Through the EPA's proposal, public review, and promulgation process, provision is made for involvement of all affected parties. However, much involvement has been elicited already from local, State, environmental, and business groups. For purposes of this analysis, a "significant" economic impact is said to occur whenever any of the following conditions are met:

1. A substantial number of small entities is impacted significantly.
2. An annual compliance cost results in an increase of five percent or more in compliance costs, relative to gross revenues.
3. The potential for significant impact is disproportionate, i.e., the effect on small entities is ten percent or more than the effect on large entities.

B. Methodology

Industries were identified as potentially "high risk" and

selected for the screening analysis based on whether an industry was comprised of predominantly small entities and whether the industry had expressed much concern over the regulatory burden. Based on this list of industries, the regulatory flexibility screening analysis was performed in accordance with the methodology defined in the current RIA for part 70. This was done because changing the methodology or baseline between analyses does not accurately represent the true marginal impact of a proposed rulemaking. To accurately gauge the impacts of the changes to part 70 included in this rulemaking, it is important to compare "like items". Therefore, since the current RIA for part 70 utilized a small business dominated industry approach, the same approach was used in this analysis. The industries sampled for determination of this rulemaking's regulatory flexibility impact can be found on pages 28 - 31 of the current part 70 RIA.

C. Results

A potential source of significant economic impacts to small entities from this rulemaking may result from the EPA's interpretation that minor NSR changes are title I modifications which subjects 48,146 minor NSR actions to the permit revision process when these actions were assumed in the current ICR to qualify for remaining off-permit until renewal of the part 70 permits. To the extent that there is a positive correlation between the size of a firm and the amount of minor NSR activity that it generates, the inclusion of off-permit revisions under the requirements of part 70 affects primarily larger entities. Consequently, the Agency attributes only a minor portion of the $341 million additional cost of the adjusted baseline to small entities. Therefore, this does not constitute a significant or disproportionate impact on those sources.

D. Environmental Equity Concerns

The Agency remains sensitive to the disproportionate impact of its regulations on minority and low income households. To the extent that the additional costs of part 70 permit revisions

disproportionately impact small entities, the Agency recognizes that this disproportionate effect will also be borne by minority businesses. While it is not true that most small businesses are minority owned, it is probable that most minority business enterprises are small entities. Consequently, to the extent that the Agency adversely impacts small entities through a rule making, that impact will be more severe on minority owned businesses. The Agency realizes its responsibility to avoid imposing unnecessary barriers upon minority owned businesses.

The Agency recognizes that along with its efforts to identify the effects of its regulations with respect to the distribution of benefits and effects, it must also take positive action to facilitate the process of environmental justice. Consequently, the Agency proposes, as a part of its proposed changes to the permit revision process, incorporating additional language that provides for an increase in public participation. Public hearings and public comment opportunities provide a vehicle thorough which minority and low income households can become empowered within the system and work for changes that are within their best interests. The proposed changes to part 70, both within the permit revision process and among the other changes in this rulemaking, are consistent with the spirit and intent of the Administration's efforts toward environmental justice and environmental equity.

E. Paperwork Reduction Act Requirements

For purposes of this analysis, the Agency has performed a marginal analysis of the impacts of the proposed changes to part 70 on the current RIA. The proposed changes to part 70 result in additional burdens from the currently approved ICR to sources, States, and the Federal government with regard to administrative requirements. Primarily, these additional costs result from the interpretation of the definition of title I modification and what is therefore eligible for off-permit treatment until renewal. Table V.1 presents the part 70 ICR line items related to permit revisions as shown in the current ICR.

Table V.2 presents the modified baseline which EPA believes is necessary to understand the true impact of the proposed changes to the part 70 permit revisions process. Table V.2 occurs when the current part 70 rules are applied to the original 18,598 revisions as well as the additional 48,146 permit revisions potentially required under the reduced availability for off-permit. This table indicates the additional burden of $341 million resulting from this proposed limitation.

Table V.3 shows the result of applying proposed changes to the permit revision process to the adjusted baseline. This table indicates that, from the perspective of the ICR currently in place, the proposed rulemaking imposes an additional $80 million burden. Table V.3 also indicates that from the perspective of the adjusted baseline, the proposed changes to the part 70 permit revision process will result in a net savings to sources, permitting authorities, and the Federal government of $261 million. An additional savings of $8 million can be found in the proposed changes to MACT rules, for a total savings, from the perspective of the adjusted baseline, of $269 million.

F. Conclusions

Table IV.2 provides a summary of the anticipated impacts of the proposed changes to part 70. There are two types of effects that need to be discussed: those related to permit revisions and those that affect other segments of part 70. With regard to permit revisions, the changes mitigate the $341 million impact of adjusting the current ICR to incorporate minor NSR actions under part 70. While the "official" impact of the changes to the revisions process must reflect the additional $80 million cost of the proposed changes, the "true" impact of the changes provides approximately $261 million in regulatory relief from the requirements of part 70 for all 66,744 annual revisions. For the remainder of the changes to part 70, the changes do not constitute significant increases.

Because the Agency must seek alternatives that mitigate the deleterious impact of its regulations on small entities, Table

V.4 illustrates the impact of the proposed changes to part 70 revisions on just the original 18,598 annual occurrences found in the current ICR. Table V.4 indicates that, from the original baseline, the proposed changes to the current part revision process constitute a relaxation in regulatory burden of approximately $78 million, or over two thirds of the original ICR revision cost.

TABLE V.1
THE PART 70 ICR LINE ITEMS FOR REVISIONS

		SOURCES		STATES		FEDERAL	
	Occurances	Hours	Cost	Hours	Cost	Hours	Cost
Large	9,160	796,920	$35,861	998,440	$33,947	146,560	$4,983
Small	9,438	386,958	$17,413	679,536	$23,104	75,504	$2,567
TOTALS	18,598	1,183,878	$53,275	1,677,976	$57,051	222,064	$7,550
ORIGINAL ICR COST FOR PART 70 PERMIT REVISONS							$117,876

TABLE V.2
PART 70 ICR ADJUSTED FOR MAKING REQUIRED OFF-PERMIT UPDATES

		SOURCES		STATES		FEDERAL	
	Occurances	Hours	Cost	Hours	Cost	Hours	Cost
LG MAJOR							
Non-NSR	9,160	796,920	$35,861	998,440	$33,947	146,560	$4,983
NSR	33,702	2,932,091	$131,944	3,673,540	$124,900	539235.2	$18,334
Total	42,862	3,729,011	167,806	4,671,980	158,847	685,795	23,317
SM MAJOR							
Non-NSR	9,438	386,958	$17,413	679,536	$23,104	75,504	$2,567
NSR	14,444	592,196	$26,649	1,039,954	$35,358	115,550	$3,929
Total	23,882	979,154	44,062	1,719,490	58,463	191,054	6,496
Total Modified ICR Cost		4,708,165	$211,867	6,391,469	$217,310	876,850	$29,813
MODIFIED ICR COST FROM PART 70							$458,990
MARGINAL COST FROM ADDING OFF-PERMIT REVISIONS TO BASELINE		3,524,287	$158,592	4,713,493	$160,259	654,786	$22,263
TOTAL MARGINAL COST							$341,114

TABLE V.3
THE REVISED PART 70 ICR WITH PROPOSED CHANGES

		SOURCES		STATES		FEDERAL	
	Occurances	Hours	Cost	Hours	Cost	Hours	Cost
SPR	3,195	4383,405	$17,253	268,383	$9,125	25,56	$869
MPR	9,084	1,090,128	$49,056	490,558	$16,679	72,675	$2,471
AA	17,573	210,873	$9,489	228,445	$7,767	35,145	$1,195
DMPR	36,910	701,287	$31,558	1,476,394	$50,197	73,820	$2,510
TOTAL COST		2,385,692	$107,356	2,463,780	$83,769	207,201	$7,045
TOTAL COST (including NSR revisions)							$198,169
MARGINAL COST FOR PROPOSED CHANGES (Adjusted ICR baseline)							($260,821)
MARGINAL COST FOR PROPOSED CHANGES (Original ICR Baseline)							$80,293

TABLE V.4
THE PART 70 ICR WITH PROPOSED CHANGES

		SOURCES		STATES		FEDERAL	
Lg Major	Occurances	Hours	Cost	Hours	Cost	Hours	Cost
SPR	1,832	159,384	$7,172	199,688	$6,789	29,312	$997
MPR	458	19,923	$897	24,961	$849	3,664	$125
AA	5,954	51,800	$2,331	64,899	$2,207	9,526	$324
DMPR	916	39,846	$1,793	49,922	$1,697	7,328	$249
	9,160	270,953	$12,193	339,470	$11,542	49,830	$1,694
Sm Major							
SPR	1,888	77,392	$3,483	135,907	$4,621	15,101	$513
MPR	472	9,674	$435	16,988	$578	1,888	$64
AA	6,135	25,152	$1,132	44,170	$1,502	4,908	$167
DMPR	944	19348	$871	33,977	$1,155	3,775	$128
	9,438	112,218	$5,920	231,042	$7,855	25,672	$873
Estimated cost for revisions			$18,113		$19,397		$2,567
Estimated marginal cost			($35,162)		($37,654)		- $4,983
TOTAL COST FOR REVISIONS							$40,078
MARGINAL COST FOR REVSIONS							- $77,798

REVISED PREAMBLE LANGUAGE

forth in E.O. 12866.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a "significant regulatory action" within the meaning of the Executive Order. The EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record. Any written comments from OMB to EPA, and any EPA responses to those comments, will be included in Docket A-93-50.

To facilitate OMB review of this proposed rulemaking, EPA has prepared an analysis showing the marginal impacts of the proposed revisions to part 70. The Agency is also in the process of updating the current Information Collection request for part 70 and will, at that time, conduct a comprehensive analysis of the regulatory revisions proposed herein.

After review of the current RIA for part 70, (EPA-450/2-91-011), the Agency has determined that, both separately and in aggregate, the effect of the changes to part 70 resulting from today's action will be more than the $100 million criteria established under E.O. 12866, section 3(f)(1) (i.e., $ 224 million per year) when compared to the current ICR approved by OMB. However, the revisions that are included in this action would, primarily through the revised permit revision process, result in a net decreased impact of $ 117 million per year when compared to a baseline of original rule costs which is adjusted to account for the Agency's revised definition of title I modification.[26]

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[26]The baseline for purposes of assessing whether a significant impact would occur is the impact level defined in the RIA and ICR. The EPA believes that this baseline should be adjusted to reflect the effect of precluding the availability of off-permit status to minor NSR actions since as title I modifications they would not qualify for such treatment. The increased costs associated with the adjustment are principally those relating to accomplishing permit revisions before renewal of the permit. While OMB has not approved this adjustment in baseline costs, EPA believes that the current ICR is understated without including this effect. This adjusted baseline is also appropriate for evaluating the effect the proposed part 70

D. Regulatory Flexibility Act Compliance

Under the Regulatory Flexibility Act, whenever an Agency publishes any proposed or final rule in the Federal Register, it must prepare a Regulatory Flexibility Analysis (RFA) that describes the impact of the rule on small entities (i.e., small businesses, organizations, and governmental jurisdictions).

The EPA has established guidelines which require an RFA to accompany a rulemaking package. For any rule subject to the Regulatory Flexibility Act, the Agency's new policy requires a regulatory flexibility analysis if the rule will have any economic impact, however small, on any small entities that are subject to the rule, even though the Agency may not be legally required to do so.

A regulatory flexibility screening analysis of the impacts of the original part 70 rules revealed that the original rule did not have a significant and disproportionate adverse impact on small entities. As noted in the preceding discussion of the RIA, today's proposed revisions to part 70 can be viewed as an aggregate relaxation to the revised impact estimated for the current rule. Consequently, the Administrator certifies that the proposed revisions to part 70 will not have a significant and disproportionate impact on small entities, either. Even if the proposed changes are viewed as causing new costs beyond the ICR as approved by OMB, the resulting administrative costs affect mainly larger part 70 sources which are not typically believed to be small business entities. The EPA, however, solicits any information or data which might affect this proposed certification. The EPA will reexamine this issue and perform any subsequent analysis deemed necessary. Any subsequent analysis will be available in the docket and taken into account before promulgation.

E. Paperwork Reduction Act

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changes since they would again restrict the availability of off-permit treatment for minor NSR actions but for reasons stemming from the proposed reduced availability of off-permit and not from the inclusion of such changes as title I modifications.

The Information Collection Request (ICR) requirements for the part 70 regulations were submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The ICR was prepared by EPA in association with the promulgation of part 70 and a copy may be obtained from Sandy Farmer, Information Policy Branch (mail code 2136), U.S. Environmental Protection Agency, 401 M St. S.W., Washington D.C. 20460, (202) 260-2740.

The screening analysis done for the original ICR for part 70 indicated the paperwork burden imposed by the rulemaking was not substantial. The screening analysis for the revisions to part 70 indicates a need to revise that estimate. However, since the original ICR for part 70 must be revised anyway before it expires in June 1995, the ICR analysis of today's proposed revisions to part 70 does not supersede or replace the up-date of the original part 70 ICR. Instead, the Administrator proposes to revise formally the ICR for the entire part 70 rule in the June 1995 up-date.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden by [60 DAYS AFTER PUBLICATION] to: Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, marked "Attention: Desk Officer for EPA." The final rule revisions will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 70

Air pollution control, Prevention of significant deterioration, New source review, Fugitive emissions, Particulate matter, Volatile organic compounds, Nitrogen dioxide, Carbon monoxide, Hydrocarbons, Lead, Operating permits.

Dated:

(Signature of Administrator)

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Administrator